

Department of Public Works

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Procedure for Alleged Violation or Violations of Part II Chapter 60 of Connecticut General Statutes

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Procedure for Alleged Violation or Violations of Part II

Chapter 60 of Connecticut General Statutes

Sec. 4b-100-1. Statement of purpose

The purpose of sections 4b-100-1 through 4b-100-10 of the Regulations of Connecticut State Agencies is to establish grievance procedures in accordance with the requirements of Section 5 of Public Act No. 89-367 for promptly hearing and ruling on claims alleging a violation or violations of the contract bidding provisions of Part II of Chapter 60 of the Connecticut General Statutes (hereinafter "Chapter 60"). In view of the fact that time is normally of the essence in awarding construction contracts under Chapter 60, the grievance procedures are intended to be quick, informal and conclusive so as to avoid delays which can increase costs and jeopardize the very ability of the State to proceed with needed public works projects.

(Effective March 31, 1992)

Sec. 4b-100-2. Definitions

As used in sections 4b-100-1 through 4b-100-10:

- (a) "Commissioner" means the Commissioner of Public Works;
- (b) "Department" means the Department of Public Works;
- (c) "Petitioner" means the party filing a claim with the Commissioner of Public Works alleging a violation or violations of Chapter 60;
- (d) "Presiding Officer" means the person designated by the Commissioner of Public Works to conduct the informal conference, at which the alleged violation(s) of Chapter 60 is heard and ruled upon;
- (e) "Respondent" means the party or parties alleged to have violated a provision of Chapter 60.

(Effective March 31, 1992)

Sec. 4b-100-3. Who may file a petition

Pursuant to the provisions of Chapter 60, the Commissioner of Public Works is authorized to award contracts for the construction, reconstruction, alteration, remodeling, repair or demolition of public buildings for the State of Connecticut. Any party whose financial interests may be affected by a decision on a claim alleging a violation(s) of the contract bidding procedures set forth in Chapter 60 may file a petition with the Commissioner seeking a ruling on whether there has been a violation. The Department may also file a petition if it has reason to believe that there has been a violation or violations.

(Effective March 31, 1992)

Sec. 4b-100-4. Contents of petition

(a) Any party wishing to file a petition with the Commissioner must use the standardized form prepared by the Department of Public Works. Blank copies of the petition form may be obtained from the Department's Bidding and Contracts Division.

(b) In order to be able to quickly determine whether there has been a violation(s) of the Chapter 60 contract bidding provisions and, if so, what would be an appropriate remedy, the Petitioner must provide the Commissioner with the following information:

- (1) A detailed description of the nature of the alleged violation or violations, including but not limited to the specific statutory provision(s) that were allegedly violated, a factual narrative of how the specified statutory provisions were violated, and the name and address of

the person(s) who allegedly committed the violation(s) and all persons believed to have personal knowledge or information on the alleged violation(s);

(2) An explanation as to how The Petitioner's financial interests may be affected by a decision on the alleged violation(s) in order to show that he has the requisite standing to file a petition under these grievance procedures;

(3) A copy of all documents in the possession of the Petitioner, or to which he has access, regarding the alleged violation(s);

(4) A complete citation to all legal authority known to the Petitioner which he believes supports his claim that there has been a violation of the contract bidding provisions of Chapter 60, including case law citations;

(5) A statement of what specific relief the Petitioner is seeking;

(6) A certification by the Petitioner attesting to the fact that Petitioner has provided the Respondent with a copy of the completed petition being filed with the Commissioner.

(c) Failure to comply with the requirements of this section shall be grounds for rejecting a petition.

(Effective March 31, 1992)

Sec. 4b-100-5. Time limit for petition

(a) If the contract has not as yet been awarded, the completed petition must be filed in the Office of the Commissioner of Public Works, State Office Building, 165 Capitol Avenue, Hartford, Connecticut, no later than ten (10) calendar days after the opening of bids on the contract on which the Petitioner claims there have been a violation(s) of the provisions of Chapter 60. Failure to comply with this 10-day filing period shall be grounds for rejecting a petition.

(b) If the contract has been awarded, the completed petition must be filed in the Office of the Commissioner no later than ten (10) calendar days after the cause or event giving rise to the claim has occurred and become known to the petitioner. Failure to comply with this 10-day filing period shall be grounds for rejecting a petition.

(c) For good cause shown by the petitioner, the Commissioner may in his discretion waive the 10-day time limitation set forth in subsections (a) and (b) where doing so will not prejudice the interest of the State of Connecticut.

(Effective March 31, 1992)

Sec. 4b-100-6. Scheduling of informal conference

(a) Following receipt of a completed petition, the Commissioner of Public Works, or his designee, will schedule an informal conference to provide both the Petitioner and the Respondent with an opportunity to argue their respective positions regarding the alleged violation(s). Written notice will be sent to the Petitioner and Respondent setting forth the time, date and location of the informal conference.

(b) At least forty-eight (48) hours prior to the scheduled informal conference, the Respondent shall file in the Office of the Commissioner a written response to the Petitioner's claim(s), together with any documentation and citations of legal authority that Respondent believes supports his position. The Respondent shall certify to the Commissioner that he has provided the Petitioner with a copy of his response and documentation prior to the filing with the Commissioner.

(c) Since time is of the essence, no postponements or extensions of time will be granted, except for extraordinary circumstances.

(Effective March 31, 1992)

Sec. 4b-100-7. Presiding officer

The Commissioner shall designate a person to act as presiding officer at the informal conference. The presiding officer shall be responsible for conducting the informal conference, reviewing all documents presented to the Department of Public Works in accordance with sections 4b-100-4, 4b-100-6, and 4b-100-8, reviewing the oral arguments of Petitioner and Respondent, and shall thereafter issue a ruling on the Petitioner's claim(s).

(Effective March 31, 1992)

Sec. 4b-100-8. Procedures at informal conference

(a) The presiding officer shall be responsible for conducting the informal conference and insuring that the Petitioner and Respondent have a fair opportunity to present their respective arguments relative to the alleged violation(s) set forth in the petition.

(b) The Petitioner shall proceed first, and the Respondent shall thereafter be provided with an opportunity to rebut Petitioner's claims. The presiding officer may ask questions or request the production of any additional documents he deems necessary to make an informed decision in the matter.

(c) Because time is of the essence and because the Petitioner and Respondent are required to file their supportive documentation with the Department prior to the informal conference, additional documents may not be presented at the informal conference, except where a good cause is shown for the failure to provide the document prior to the informal conference or where the presiding officer determines that the document is necessary to make an informed decision and the parties will not be substantially prejudiced by the introduction of the document.

(Effective March 31, 1992)

Sec. 4b-100-9. Ruling

The presiding officer shall issue a ruling in the matter within fifteen (15) calendar days of the conclusion of the informal conference. The ruling should be in writing and shall set forth the facts and conclusions found by the presiding officer with respect to the alleged violation(s) of Chapter 60. A copy of the ruling shall be sent by registered or certified mail, postage prepaid, to the Petitioner and Respondent.

(Effective March 31, 1992)

Sec. 4b-100-10. Administrative appeal

(a) Any party adversely affected by a ruling issued under these grievance procedures may file a written appeal with the Commissioner of Public Works. This appeal shall contain a statement of the reasons why the party believes that the ruling is erroneous. (If the Commissioner issued the ruling in question, this ruling shall be final and these appeal provisions shall not apply.)

(b) The written appeal must be filed in the Office of the Commissioner within five (5) days of the receipt of the ruling, including Saturday and Sunday. A copy must also be sent to the other party or parties in the matter.

(c) Thereafter, the Commissioner shall issue a written decision on the ruling, and this decision shall be final and conclusive in the matter.

(Effective March 31, 1992)